

THE *HISSEIRICH* DECISION

SUMMARY OF FACTORS RELIED UPON BY THE CALIFORNIA STATE BOARD OF EQUALIZATION — November 1, 2000

The majority of the State Board of Equalization held that the taxpayer in the *Appeal of Helmi A. Hissirich* qualified for head of household filing status.

In its holding, the majority opinion determined that the following factors were essential:

- The taxpayer and her partner voluntarily and knowingly consented to the use of alternative reproductive technology as a necessary surrogate for procreative intercourse for the conception of the child.
- The taxpayer and her partner were an unmarried couple who maintained a committed relationship.
- Their aim was to bring a child into the world and provide a home for her and assume responsibility for her care.
- The taxpayer intended from the outset to be the child's parent and continued to exhibit her intent to parent after the child's birth.
- The child otherwise qualified as a qualifying individual for head of household filing status.
- No other taxpayer could claim the child as a dependent.

In addition, the majority found the following facts persuasive in reaching its decision to allow head of household filing status:

- No other individual claimed or could claim the child as a qualifying individual for head of household filing status.
- The taxpayer and her domestic partner were unable to marry under California law; however they registered as domestic partners with the city, county and state in which they lived.
- They maintained a committed relationship for a substantial period of time prior to their decision to have a child.
- They decided to have a child together with the specific intent to rear the child together.
- They voluntarily and knowingly consented to the artificial insemination of the taxpayer's partner with a licensed California sperm bank under the direction of a licensed California physician.
- The taxpayer further exhibited her intent to be the child's parent by initiating adoption proceedings following the child's birth.
- The taxpayer, the partner, and child lived together and held themselves out to the community as a family following the birth of the child.